

AMENDED IN SENATE AUGUST 26, 2003

AMENDED IN SENATE JULY 1, 2003

AMENDED IN SENATE JUNE 19, 2003

AMENDED IN ASSEMBLY JUNE 2, 2003

AMENDED IN ASSEMBLY JANUARY 29, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 23

Introduced by Assembly Member Nation

December 2, 2002

~~An act to add Section 139 to the Health and Safety Code, relating to breast cancer. An act to amend Section 65 of the Revenue and Taxation Code, relating to property taxation, to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 23, as amended, Nation. ~~Breast cancer~~ *Property taxation: joint tenancy: change in ownership.*

~~Existing law establishes the Office of Women's Health within the State Department of Health Services. The functions of the office include, among others, to communicate and disseminate information and perform a liaison function within the department and to providers of health, social, educational, and support services to women.~~

~~Existing law also provides for various programs related to the prevention and treatment of breast cancer.~~

~~This bill would create the Mammography Patient Best Principles, that includes prescribed expectations of mammography patients.~~

Existing property tax law generally requires that the appraised value of real property be reassessed whenever there is a change in ownership, but specifies that there is no change in ownership upon the creation or transfer of a joint tenancy interest if the transferor or transferors, after the creation or transfer, are among the joint tenants. Upon the creation of the joint tenancy interest, the transferor or transferors become the “original transferor or transferors.” A subsequent transfer or termination of a joint tenancy interest does not result in a change in ownership if the interest vests entirely or in part in an original transferor, but does result in a change in ownership when the last original transferor’s interest terminates.

This bill would clarify this law by specifying that there is no change in ownership if the transferor or transferors, after the creation or transfer of the joint tenancy interest, either become the joint tenants or are among the joint tenants. The bill would also specify that the transferor or transferors shall become the “original transferor or transferors” upon either the creation or transfer of the joint tenancy interest.

Existing law also specifies that there is no change in ownership upon the transfer of a joint tenant’s interest into a trust by the joint tenant trustor for as long as, among other things, the trustor is the present beneficiary of the trust.

This bill would provide that a joint tenant who transfers his or her joint tenancy interest to his or her trust or will for the benefit of the other joint tenants shall become an “original transferor.”

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1.—The Legislature finds and declares all of the~~
- 2 *SECTION 1. Section 65 of the Revenue and Taxation Code is*
- 3 *amended to read:*
- 4 65. (a) The creation, transfer, or termination of any joint
- 5 tenancy is a change in ownership except as provided in this section,
- 6 Section 62, and Section 63. Upon a change in ownership of a joint
- 7 tenancy interest only the interest or portion ~~which~~ *that* is thereby
- 8 transferred from one owner to another owner shall be reappraised.

(b) (1) There shall be no change in ownership upon the creation or transfer of a joint tenancy interest if the transferor or transferors, after ~~such~~ *that* creation or transfer, *become the joint tenants or* are among the joint tenants. Upon the creation *or transfer* of a joint tenancy interest described in this subdivision, the transferor or transferors shall be the “original transferor or transferors” for purposes of determining the property to be reappraised on subsequent transfers.

(2) (A) *As used in this subdivision, a “transfer” includes a transfer of the joint tenant’s interest into a trust or will for the benefit of the other joint tenants. The joint tenant or tenants transferring the interest are both a transferor or transferors, and a transferee or transferees, and shall be considered an “original transferor or transferors” for purposes of determining the property to be reappraised on subsequent transfers.*

(B) *The transfer of a joint tenant’s interest into a trust or will pursuant to this paragraph may not be construed for purposes of this part to be a severance of the joint tenancy, as described in Section 683.2 of the Civil Code.*

(3) The spouses of original transferors shall also be considered original transferors within the meaning of this section.

(c) Upon the termination of an interest in any joint tenancy described in subdivision (b), the entire portion of the property held by the original transferor or transferors prior to the creation of the joint tenancy shall be reappraised unless it vests, in whole or in part, in any remaining original transferor, in which case there shall be no reappraisal. Upon the termination of the interest of the last surviving original transferor, there shall be a reappraisal of the interest then transferred and all other interests in the properties held by all original transferors ~~which~~ *that* were previously excluded from reappraisal pursuant to this section.

(d) Upon the termination of an interest held by other than the original transferor in any joint tenancy described in subdivision (b), there shall be no reappraisal if the entire interest is transferred either to an original transferor or to all remaining joint tenants, provided that one of the remaining joint tenants is an original transferor.

(e) For purposes of this section, for joint tenancies created on or before March 1, 1975, it shall be rebuttably presumed that each joint tenant holding an interest in property as of March 1, 1975,

1 shall be an “original transferor.” This presumption is not
2 applicable to joint tenancies created after March 1, 1975.

3 *SEC. 2. This act provides for a tax levy within the meaning of*
4 *Article IV of the Constitution and shall go into immediate effect.*
5 *following:*

6 ~~(a) The United States Congress enacted the Mammography~~
7 ~~Quality Standards Act of 1992 and subsequent legislation to~~
8 ~~ensure that all women have access to quality mammography for~~
9 ~~the detection of breast cancer in its earliest, most treatable stages.~~

10 ~~(b) It is the policy of the State of California to ensure~~
11 ~~compliance and enforcement of the state Mammography Quality~~
12 ~~Assurance Act of 1992 (Chapter 870 of the Statutes of 1992), the~~
13 ~~federal Mammography Quality Standards Act of 1992 and the~~
14 ~~Mammography Quality Standards Reauthorization Act of 1998~~
15 ~~(42 U.S.C. Sec. 263b), and the federal Food and Drug~~
16 ~~Administration’s (FDA’s) Mammography Quality Assurance~~
17 ~~Program, as an avenue to reduce the morbidity and mortality~~
18 ~~associated with breast cancer.~~

19 ~~(c) While advances have been made in the treatment of breast~~
20 ~~cancer, these advances are enhanced with early detection of breast~~
21 ~~cancer. Early detection combined with improvements in treatment~~
22 ~~has led to a 25 percent drop in the rate of death from breast cancer~~
23 ~~in the state. Early detection is more likely when multiple methods,~~
24 ~~including mammography, but also self-examination and clinical~~
25 ~~breast examinations, are used.~~

26 ~~(d) Health care providers are encouraged to practice, and~~
27 ~~provide care to their patients, in accordance with the~~
28 ~~Mammography Patient Best Principles established pursuant to this~~
29 ~~act.~~

30 ~~(e) The collaborative nature of health care requires that patients~~
31 ~~participate in their care.~~

32 ~~SEC. 2. Section 139 is added to the Health and Safety Code,~~
33 ~~to read:~~

34 ~~139. (a) This section shall be known and referred to as the~~
35 ~~Mammography Patient Best Principles.~~

36 ~~(b) A patient should expect considerate and respectful care in~~
37 ~~a safe environment.~~

38 ~~(c) A patient should expect privacy in accordance with the~~
39 ~~federal Health Insurance Portability and Accountability Act of~~
40 ~~1996 and applicable state law. Mammography consultation;~~

1 ~~procedures, and discussions should be conducted to protect patient~~
2 ~~privacy. A patient should expect that a health care provider will~~
3 ~~treat all communications and records pertaining to care~~
4 ~~confidentially, except as otherwise required or permitted by law.~~

5 ~~(d) A patient should expect to have a health care provider~~
6 ~~explain that mammograms are not a treatment, but a diagnostic~~
7 ~~tool that may detect cancer already developed in breast tissue. A~~
8 ~~patient should expect to decide, in consultation with the health care~~
9 ~~provider, whether to have a mammogram.~~

10 ~~(e) A patient may request relevant, current, and understandable~~
11 ~~information about mammography from the health care provider.~~
12 ~~A patient may discuss available information related to~~
13 ~~mammography, the risks involved, and any medically reasonable~~
14 ~~alternatives to existing procedures, along with the accompanying~~
15 ~~risks and benefits. A patient may request educational materials on~~
16 ~~breast cancer risk factors and other information, including, but not~~
17 ~~limited to, information regarding breast self-examinations,~~
18 ~~mammography, and recommended timing of mammograms.~~

19 ~~(f) A patient may request the identity of the health care~~
20 ~~providers involved in that patient's care. A patient may request that~~
21 ~~a qualified radiologist read that patient's mammogram.~~

22 ~~(g) A patient may discuss any radiation concerns with a health~~
23 ~~care provider or technician.~~

24 ~~(h) A patient may examine and obtain a copy of her or his~~
25 ~~medical records, including, but not limited to, mammography~~
26 ~~results, in accordance with state and federal law.~~

27 ~~(i) A patient may request the name, and contact information~~
28 ~~for, the state agencies responsible for overseeing public health~~
29 ~~issues if she or he wishes to make a complaint. A patient may~~
30 ~~request information regarding available resources for resolving~~
31 ~~disputes, grievances, and conflicts.~~